IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

WP(C).No. 32980 of 2006(A)

PETITIONER:

P.JAYAPAL, PUTHARATHALA HOUSE,
DHANUVACHAPURAM P.O., NEYYATTINKARA,
THIRUVANANTHAPURAM, (FORMERLY SECRETARY, KOLLAYIL
MILK PRODUCER'S CO-OP. SOCIETY, LTD.NO.T.253(D)
(APCOS), DHANUVACHAPURAM, NEYYATTINKARA,
PIN-695 503.

BY ADV. SRI.S.JAMES VINCENT

RESPONDENTS:

1. THE STATE OF KERALA,
REP. BY THE SECRETARY TO GOVERNMENT,
DAIRY DEVELOPMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-1.

2. THE DIRECTOR,
DIRECTORATE OF DAIRY DEVELOPMENT,
PATTOM, THIRUVANANTHAPURAM-4.

3. THE DEPUTY DIRECTOR OF DAIRY DEVELOPMENT
DO. DO.

4. THE KOLLAYIL MILK PRODUCERS' CO-OP.
SOCIETY LTD.NO.T.253(D)(APCOS),
DHANUVACHAPURAM, NEYYATTINKARA, PIN-695 503,
REP. BY THE PRESIDENT.

5. V.BHUVANACHANDRAN,
CHOVALLYVILAKOM VEEDU,
DHANUVACHAPURAM, NEYYATTINKARA, PIN-695 503.

BY GOVERNMENT PLEADER, SRI.P.K.RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:-

EXT.P1	TRUE COPY OF BYE-LAWS OF THE KOLLAYIL MILK PRODUCERS' CO-OPERATIVE SOCIETY LTD. NO.5.253(D) (APCOS).
EXT.P2	TRUE COPY OF SHOW CAUSE MEMO DT.24/02/2005.
EXT.P3	TRUE COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER ON 28/02/2005.
EXT.P4	TRUE COPY OF NOTICE DT.05/03/2005 ISSUED TO THE PETITIONER.
EXT.P5	TRUE COPY OF THE EXPLANATION SUBMITTED ON 08/03/2005.
EXT.P6	TRUE COPY OF JUDGMENT DT.10.05.2005 IN WP(C) NO.13821/2005
EXT.P7	TRUE COPY OF ORDER NO.D/1588/04, 17/05/2005 ISSUED BY THE DEPUTY DIRECTOR.
EXT.P8	TRUE COPY OF RESOLUTION NO.1 DT.18/05/2005.
EXT.P9	TRUE COPY OF REPORT OF HANDING OVER OF CHARGE DT.18/05/2005
EXT.P10	TRUE COPY OF AUDIT REPORT DT.27/05/2005 FOR THE YEAR 2002-2003 (FRONT PAGE AND PAGE 17 ONLY). LEGIBLE COPY OF EXT P10.
EXT.P11	TRUE COPY OF INTERIM ORDER DT.25/08/2005 ON I.A.NO.12534/2005 IN WP(C) NO.17509/2005
EXT.P12	TRUE COPY OF THE PETITION SUBMITTED BY SIVAN PILLAI TO THE SUB INSPECTOR OF POLICE, ON 01/02/2006
EXT.P13	TRUE COPY OF NOTICE DT.08/01/2006 ISSUED BY THE SOCIETY TO T.WATSON.
EXT.P14	TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER TO THE DEPUTY DIRECTOR ON 24/02/2006 FOR SUBSISTENCE ALLOWANCE.
EXT.P15	TRUE COPY OF ORDER DT.24/02/2006 IN WP(C) NO.35533/2005
EXT.P16	TRUE COPY OF RESIGNATION SUBMITTED BY SRI.D.JAYARAJ ON 10/03/2006
EXT.P17	TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER TO THE DEPUTY DIRECTOR ON 23/03/2006.
EXT.P18	TRUE COPY OF ORDER NO.D/937/06 DT.22/05/2006 ISSUED BY THE DEPUTY DIRECTOR.

APPENDIX

EXT.P19	TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER TO THE PRESIDENT OF THE SOCIETY ON 26/05/2006.
EXT.P20	TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER TO THE DEPUTY DIRECTOR, ON 27/05/2006
EXT.P21	TRUE COPY OF JUDGMENT DT.11/08/2006 IN WP(C) NO.13971/2006 OF THE HON'BLE HIGH COURT OF KERALA
EXT.P22	TRUE COPY OF JUDGMENT DT.30/08/2006 IN WP(C) NO.1609/2006 OF THE HON'BLE HIGH COURT OF KERALA
EXT.P23	TRUE COPY OF ORDER NO.26183/D2/06/AD DT.18/09/2006 ISSUED BY THE GOVERNMENT
EXT.P24	TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER TO THE PRESIDENT OF THE SOCIETY, ON 17/09/2006
EXT.P25	TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER TO THE DEPUTY DIRECTOR ON 18/09/2006 FOR REINSTATEMENT
EXT.P26	TRUE COPY OF THE NOTICE NO.26183/D2/06/AD DT.23/09/2006 ISSUED BY THE GOVERNMENT TO THE PETITIONER
EXT.P26(a)	TRUE COPY OF THE APPEAL DT.08/09/2006 FILED BY THE PRESIDENT OF THE SOCIETY
EXT.P27	TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER TO THE PRESIDENT, ON 29/09/2006, FOR COPIES OF THREE RESOLUTIONS
EXT.P28	TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER TO THE GOVERNMENT ON 04/10/2006 FOR VACATING THE ORDER OF STAY.
EXT.P29	TRUE COPY OF NOTICE NO.26183/D2/06/AD DT.07/10/2006 ISSUED TO THE PETITIONER BY THE GOVERNMENT
EXT.P29(a)	TRUE COPY OF NOTICE NO.26183/D2/06/AD DT.19/10/2006 ISSUED TO THE PETITIONER BY THE GOVERNMENT
EXT.P30	TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER TO THE DEPUTY DIRECTOR, ON 04/12/2006.
EXT.P30(a)	TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER TO THE SOCIETY ON 04/12/2006 FOR COPIES OF THE THREE RESOLUTIONS AND THE ENQUIRY REPORT

\\TRUE COPY //

P.A TO JUDGE

J.M.JAMES, J.

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W.P.(C) No. 32980 of 2006 (A)

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Dated this the 20th day of December, 2006

J U D G M E N T

The writ petitioner was suspended on 24/02/2005 from the fourth respondent, Co-operative Society, APCOS. He was not paid any subsistence allowance. He continues on suspension. Therefore, he preferred WP(C) No.35533/2005. As per Exhibit P15, judgment dated 24/02/2006, the Deputy Director of Dairy Development Department, was directed to consider the representation of the writ petitioner. Accordingly, Exhibit P18 order was passed, setting aside the suspension of the writ petitioner and directing immediate reinstatement. That order was challenged by the Secretary of the fourth respondent. Through Exhibit P21 judgment dated 11/08/2006, in W.P.(C) No.13971/2006, the fourth respondent Society was given an option to file an appeal, if so advised. Accordingly, they have filed an appeal before the Government along with a stay application. As per Exhibit P23, an interim stay was granted by the Government on 18/09/2006, staying the order of the Deputy

Director of Dairy Development Department, Thiruvananthapuram.

2. Because of the above stay dated 18/09/2006, granted by the Secretary to the Government, Agricultural (Dairy) Department, Thiruvananthapuram, the petitioner is without any subsistence allowance even now and he continues outside the service. Therefore, he filed Exhibit P28 representation dated 04/10/2006, praying to hear and dispose of the appeal and also to grant the subsistence allowance, reinstatement in service and challenged the authority of the Government to entertain an appeal. Exhibit P28 representation is pending before the Government.

3. The prayer of the writ petitioner, therefore, is that a direction may be issued to the first respondent to dispose of Exhibit P26(a) appeal immediately and vacate the ex-parte order of interim stay granted, staying the order of reinstatement, passed by the Deputy Director of Dairy Development Department, Thiruvananthapuram.

4. Though, service is complete, there is no representation from the fourth and fifth respondents. I heard

the learned counsel for the writ petitioner and the Senior Government Pleader.

5. In the circumstances of this case, I direct the first respondent to dispose of Exhibit P26(a) appeal, filed by the fourth respondent Society, after hearing all concerned, on merit, as early as possible, in any case, within two months from the date of production of the copy of this judgment. At the time of hearing, Exhibit P28 representation and the prayers therein shall also be appreciated.

This writ petition is closed as above.

(J.M.JAMES)
Judge

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